

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

OTUMFOE JAY CARPENTER,

Defendant.

Case No. CR05-64-RSL

**PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE**

INTRODUCTION

I conducted a hearing on alleged violations of supervised release in this case on May 11, 2011. The defendant appeared pursuant to a warrant issued in this case. The United States was represented by Francis Franze-Nakamura, and defendant was represented by Lee Covell. Also present was U.S. Probation Officer Jennifer Van Flandern. The proceedings were digitally recorded.

SENTENCE AND PRIOR ACTION

Defendant was sentenced on June 30, 2005 by the Honorable Robert S. Lasnik for Distribution and Possession with Intent to Distribute Cocaine. He received 84 months and 26 days of detention and 6 years of supervised release.

In addition to the standard conditions of supervised release, the Court ordered special

1 conditions requiring that he participate in a drug treatment program, to include testing for the
2 detection of substance abuse; provide the probation office access to any requested financial
3 documents; and submit to a search.

4 Mr. Carpenter completed his original term of custody of October 12, 2010, and his period of
5 supervised release commenced.

6 On January 13, 2011, a warrant was issued after Mr. Carpenter used alcohol, failed to attend
7 substance abuse treatment, moved without notifying the probation office, and was found
8 associating with a known felon. The Court revoked Mr. Carpenter's term of supervised release
9 on March 30, 2011, and sentenced Mr. Carpenter to time served to be followed by a 71 month
10 term of supervised release. All previously imposed conditions were reimposed in addition to 120
11 days at the Residential Reentry Center (RRC), mental health treatment, and restriction from
12 establishments selling alcohol as a single commodity.

13 Mr. Carpenter completed his current term of custody on April 1, 2011, and his period of
14 supervised release commenced. Mr. Carpenter's term of supervised release is scheduled to
15 expire on February 28, 2017.

16 PRESENTLY ALLEGED VIOLATIONS

17 In a petition dated May 9, 2011, U.S. Probation Officer Jennifer Van Flandern alleged that
18 defendant violated the following conditions of supervised release:

- 19 1. Being terminated from the RRC on May 9, 2011, in violation of the special condition
20 requiring him to reside and participate in an RRC for up to 120 days as directed.
- 21 2. Failing to report for substance use testing on May 2, 2011, in violation of the special
22 condition requiring he submit to drug testing.
- 23 3. Failing to participate in substance abuse treatment with Sound Mental Health on May

1 2, 2011, in violation of the special condition that he participate in substance abuse
2 treatment.

3 FINDINGS FOLLOWING EVIDENTIARY HEARING

4 Defendant admitted to violation 1, and denied violations 2 and 3. Mr. Carpenter is set for an
5 evidentiary hearing before Magistrate Judge Mary Alice Theiler on May 24, 2011 at 9:00 a.m. on
6 violations 2 and 3.

7 RECOMMENDED FINDINGS AND CONCLUSIONS

8 I recommend the court find defendant has violated the condition of his supervised release
9 that he successfully complete his placement at a residential reentry center (RCC). I also
10 recommend that the Court conduct a disposition hearing after an evidentiary hearing is
11 conducted on violations 2 and 3.

12 DATED this 11th day of May, 2011.

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16 BRIAN A. TSUCHIDA
17 United States Magistrate Judge
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